

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Civil Action No. 04-12091-NMG

**FREDERICK H. TARR, III,**

**Plaintiff**

v.

**TOWN OF ROCKPORT, MICHAEL  
RACICOT, NICOLA BARLETTA,  
CHARLES CLARK, ROXANNE TIERI and  
JOANNE WILE,**

**Defendant**

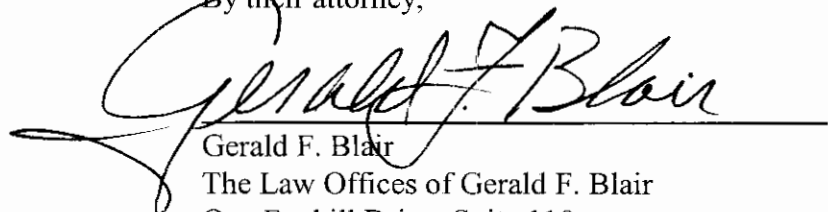
**DEFENDANTS' MOTION FOR PARTIAL JUDGMENT  
ON THE PLEADINGS REGARDING CERTIORARI REVIEW  
UNDER F.R.C.P. RULE 12(c)**

Now comes the defendants, Town of Rockport, Michael Racicot, Nicola Barletta, Charles Clark, Roxanne Tieri and Joanne Wile and move this Honorable Court to enter Partial Judgment on the Pleadings pursuant to Federal Rules of Civil Procedure Rule 12(c) dismissing the action in the nature of certiorari under M.G.L. c. 249 § 4 Count II of the plaintiff's Complaint against the defendants and the claims for attorneys fees and costs in this action.

The defendants attach hereto the Certified Record of Proceedings By the Keeper of Records of the Town of Rockport Board of Selectmen, Affidavit of the Rockport Town Clerk and Defendants' Memorandum of Law in support of this Motion.

THE DEFENDANTS,

By their attorney,



Gerald F. Blair

The Law Offices of Gerald F. Blair

One Foxhill Drive, Suite 110

Walpole, MA 02081-4406

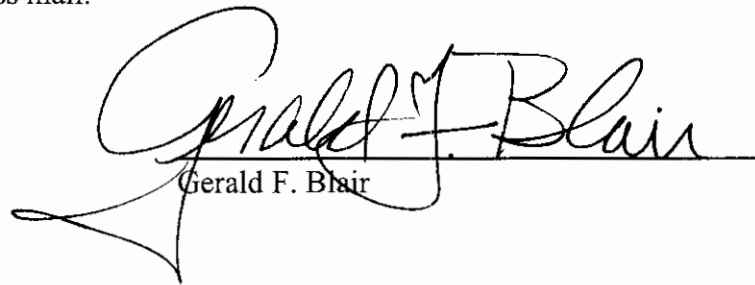
Tel (508) 660-9599 Fax (508) 660-9555

B.B.O. #044760

**CERTIFICATE OF SERVICE**

I hereby certify that the Defendants' Motion for Partial Judgment on the Pleadings Regarding Certiorari Review under F.R.C.P. Rule 12(c) were served upon John L. Hamilton, Esquire, 10 Lee Park, South Hamilton, MA 01982 and Philip D. Moran, Esquire, Philip D. Moran, P.C., 265 Essex Street, Suite 202, Salem, MA 01970 attorneys for the plaintiff/opposing party by mailing a copy of same, postage prepaid and via first class mail.

Date: Sept 9, 2005

  
Gerald F. Blair